

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ROBERT BLACKCLOUD,

Plaintiff,

v.

Civil Action No. 2:10cv20

**ERIC HOLDER, United States Attorney
General; HARLEY LAPPIN, Director of
Federal Bureau of Prisons; and
KUMA DEBOO, Warden, FCI-Gilmer,**

Defendants.

ORDER

On September 16, 2010, Magistrate Judge John S. Kaull filed his Report and Recommendation (“R&R”)(Doc. 41), wherein the plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the R&R. Plaintiff filed his objections on November 2, 2010. See Doc. 48.

Upon examination of the report from the Magistrate Judge, it appears to this Court that the issues raised by the plaintiff in his civil rights complaint, wherein plaintiff alleges that defendants have violated his rights by failing to provide protection, were thoroughly considered by Magistrate Judge Kaull in his R&R. Upon review of the plaintiff’s objections, which appear to make a blanket objection to the entirety of the R&R, this Court finds that the plaintiff has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his R&R. The Court finds, as did the Magistrate Judge, that the plaintiff has failed to exhaust his administrative remedies, thus barring remedy at this level. This Court further finds that, irregardless of the failure to exhaust, the

plaintiff's claims still fail on the merits, as more particularly set forth in the R&R, as he has not met the standard for injunctive relief, and he has not shown that the defendants have a clear duty to protect him in the manner in which he claims. Moreover, the Court, upon an independent *de novo* consideration of all matters now before it, is of the opinion that the R&R accurately reflects the law applicable in this case. Therefore, it is

ORDERED that Magistrate Judge Kaull's R&R (Doc. 41) be, and the same hereby is, **ADOPTED**. Accordingly, it is

ORDERED that the defendants' Motion to Dismiss or for Summary Judgment (Doc. 27) shall be, and the same hereby is, **GRANTED**. It is further

ORDERED that the plaintiff's Motion to Intervene and Protect (Doc. 26) shall be, and the same hereby is, **DENIED**. It is further

ORDERED that the plaintiff's Complaint (Doc. 1) be, and the same hereby is, **DISMISSED WITH PREJUDICE**, and that this civil action be **STRICKEN** from the docket of the Court. It is further

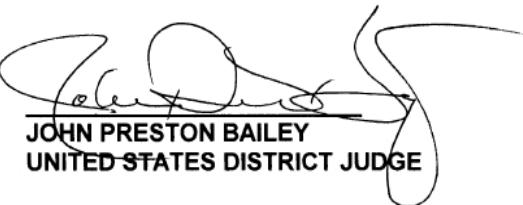
ORDERED that the Clerk shall enter judgment for the defendants. It is further

ORDERED that, if plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma*

pauperis from the United States Court of Appeals for the Fourth Circuit.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein.

DATED: November 24, 2010.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE